

REMARKS:

The Examiner is thanked for the indication of allowable subject matter in the Office Action of March 22, 2005. Specifically, the Examiner indicated that claim 8-22 would be allowable if claim 8 is rewritten to overcome the rejections under 35 U.S.C. §112, 2nd paragraph. Accordingly, Applicants have amended claim 8 in clarification. Claims 19 and 23 have been canceled, and claim 20 has been amended to depend from amended claim 8. No new matter has been added.

As an initial matter, Applicants confirm the election of the invention of Group I, or claims 1-22.

Claim 8 was rejected as being indefinite. The packing apparatus of claim 8 includes a matrix former having a product contact surface pivotable about a first axis between a first position and a second position. The product contact surface faces in a first direction when in the first position, and faces in a second direction when in the second position. The apparatus also includes a platform pivotable about a second axis between a first position and a second position. The platform faces in a first direction when in the first position, and faces in a second direction when in the second position. The apparatus also includes a carriage that is moveable between and aligned with the product contact surface in the second position and a discharge roller. Applicants have amended claim 8 in clarification, and submit that the rejections under 35 U.S.C. §112, 2nd paragraph, have been overcome.

Claims 1-7 were rejected under the judicially created doctrine of obviousness-type double patenting over U.S. Patent No. 6,679,033 in view of Fuller et al. Claims 1-7 are also rejected as being obvious over the '033 patent in view of Fuller et al.

Applicants submit herewith a terminal disclaimer, which obviates the rejection over U.S. Patent No. 6,679,033. The assignee of the present application is also the assignee of the '033.

Statement of Common Ownership:

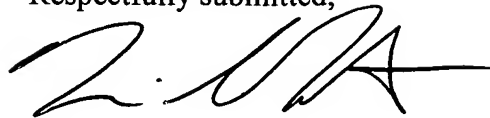
The present application Serial No. 10/759,531 and U.S. Patent No. 6,679,033 were, at the time the invention of the '531 application was made, owned by and subject to an obligation of assignment to, F.R. Drake Company. See MPEP §706.02(I).

Assignment of the '033 patent to F.R. Drake Company was recorded on August 18, 2002 (Reel 23207, frame 960). All rights to the invention were assigned to F.R. Drake Company at that time, including all rights in the original patent application, as well as any divisional, continuation, continuation-in-part, reissue, utility and design patents, etc. Assignment of the '531 application to F.R. Drake Company was recorded on June 22, 2004 (Reel 15499, frame 704).

In light of the remarks and amendments herein, as well as the terminal disclaimer filed herewith, Applicants submit that all rejections have been overcome. Allowance of all pending claims is respectfully requested.

The fee for the terminal disclaimer is enclosed. It is believed that no other fees are due with this submission. Should that determination be incorrect, then please debit Account No. 50-0548 and notify the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'W. Schrot', with a long horizontal flourish extending to the right.

William C. Schrot
Registration No. 48,447
Attorney for Applicants

Berenato, White & Stavish, LLC
6550 Rock Spring Drive, Ste. 240
Bethesda, Maryland 20817
Telephone: (301) 896-0600
Facsimile: (301) 896-0607